



PATENT  
Attorney Docket 047763-5014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Dirk OSTERMANN *et al.* )  
Application No.: 09/509,215 ) Group Art Unit: 2856  
International Filing Date: September 25, 1998 ) Examiner: T. Noland  
Filed: February 7, 2001 )  
For: APPARATUS FOR REMOVING A )  
SAMPLE FROM AN ARRAY OF )  
SAMPLES AND A CUTTING TOOL )  
FOR USE WITH THAT APPARATUS )

Commissioner for Patents  
Washington, D.C. 20231

Sir:

**RESPONSE TO OFFICE ACTION DATED MAY 2, 2002**

In response to the Office Action dated May 2, 2002 (Paper No. 11), the period of response to which extends through June 3, 2002 (June 2, 2002 being a Sunday), Applicants respond as follows:

**1. Restriction Requirement**

The Examiner requires election to one of Group 1 (claims 1-5) drawn to a method for excising at least one sample in an array of samples or an apparatus for excising at least one sample from an array of samples; or Group 2 (claims 6-12) drawn to a cutting tool.

Applicants hereby elect Group 2 (claims 6-12) with traverse. This election is made without prejudice to or disclaimer of the other claims or the inventions disclosed herein.

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2. **Petition to Expunge**

As identified by the Examiner, an unrelated document was inadvertently filed in the above-reference application. Filed on even date herewith is a Petition to Expunge the unrelated document from the above-referenced application.

**Except** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By:

  
Michele Van Patten Frank  
Reg. No. 37,028

Dated: June 3, 2002

Customer No. 009629  
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202-739-3001



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PATENT  
ATTORNEY DOCKET NO. 047763-5014

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Sir:

**TRANSMITTAL FORM**

1. Transmitted herewith is an Amendment responding to the Office Action dated May 2, 2002 (Paper No. 11), the period for response to which extends through June 3, 2002 (June 2, 2002 being a Sunday.)
2. Additional papers enclosed:

Drawings:  Formal  Informal (Correction)  
 Information Disclosure Statement  
 Form PTO-1449, \_\_\_\_\_ references included  
 Citations  
 Declaration of Biological Deposit  
 Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

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3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

Applicant believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Applicants petition for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

Total Months <u>Requested</u>	Fee for <u>Extension</u>	[Fee for Small Entity]
[ ] one month	\$ 110.00	\$ 55.00
[ ] two months	\$ 400.00	\$200.00
[ ] three months	\$ 920.00	\$460.00
[ ] four months	\$1,440.00	\$720.00

Extension of time fee due with this request: \$ \_\_\_\_\_.

If an additional extension of time is required, please consider this a Petition therefor.

An extension for \_\_\_ months has already been secured and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	12	Minus	20	0	x \$18 each=	+ \$
Independent Claims (37 C.F.R. §1.16(b))	2	Minus	2	0	x \$84 each=	+ \$
[ ] First presentation of Multiple dependent claim(s)					\$280.00	+ \$
<b>SUB-TOTAL =</b>						<b>\$</b>
<b>Reduction by 1/2 for filing by a small entity</b>						<b>- \$</b>
<b>TOTAL FEE =</b>						<b>\$ 0.00</b>

6. Fee Payment

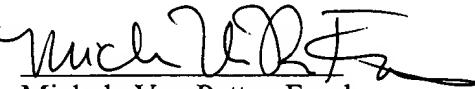
No fee is to be paid at this time.

Check in the amount of \$\_\_\_\_ for \_\_\_\_\_. The Commissioner is hereby authorized to charge any additional extension of time fee or additional fee for claims due to Deposit Account No. 50-0310.

Please charge our Deposit Account No. 50-0310 in the amount of \$130.00 for the Petition under 37 CFR § 1.59(b). The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By:   
Michele Van Patten Frank  
Reg. No. 37,028

Dated: June 3, 2002

**CUSTOMER NO. 009629**

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